

Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED

AUG 9 1999

In the Matter of

)

FEDERAL COMMUNICATIONS COMMISSION
STATE OF PENNSYLVANIA

Truth-in-Billing

)

CC Docket No. 98-170

And

)

Billing Format

)

To: The Commission

REPLY COMMENTS OF FRONTIER CELLULAR

Frontier Cellular ("Frontier"), on behalf of Upstate Cellular Network ("UCN"), hereby replies to comments submitted in response to the Commission's *Further Notice of Proposed Rulemaking* ("FNPRM").¹ Frontier is the "doing business name" for UCN, the licensee of, or controlling interest holder in, twelve cellular radiotelephone service systems in New York and Pennsylvania.

Frontier supports the Commission's inquiry into truth-in-billing ("TIB") in the Commercial Mobile Radio Services ("CMRS") industry and its decision to reexamine the relevancy of TIB rules in a wireless context. Along with the overwhelming number of commentors, Frontier supports the Commission's position not to expand the TIB provisions beyond those adopted in the *First Report and Order* section of the FNPRM.²

¹ *Truth-in-Billing and Billing Format*, CC Docket No. 98-170, *First Report and Order and Further Notice of Proposed Rulemaking*, FCC 99-72 (released May 11, 1999), *errata* (released May 24, 1999), 64 Fed. Reg. 34,488, 64 Fed. Reg. 34,499 (June 25, 1999), *effective date delayed*, Public Notice DA 99-1423 (released July 20, 1999).

² *See id.* at ¶¶ 13-19.

In addition, Frontier maintains that the Commission's imposition of two "fundamental" TIB provisions to CMRS carriers is unnecessary.³ Should the Commission decide not to "forbear" from applying these rules once they become effective,⁴ it should refrain from expanding the scope of information required by the rules to include additional information, such as the identification of entities beyond the business name of the contractual service provider.⁵ Requiring the identification of associated or related entities, such as parent organizations, would undermine the Commission's stated goal of preventing consumer confusion.

I. IN THE CMRS CONTEXT, TIB REGULATIONS ARE A CURE IN SEARCH OF A DISEASE

All but one of the parties submitting comments support the Commission's tentative conclusion that additional TIB rules should not apply to CMRS carriers.⁶ Nearly all commentors

³ In the *First Report and Order* section of the *FNPRM*, the Commission states that "[d]espite the fact that some rules may be inapplicable or unnecessary in the CMRS context, there are two rules that we think are so fundamental that they should apply to all telecommunications common carriers: (1) that the name of the service provider associated with each charge be clearly identified on the bill; and (2) that each bill should prominently display a telephone number that customers may call free-of-charge in order to inquire or dispute any charge contained on the bill." *See id.* at ¶ 17.

⁴ Although the *FNPRM* requests comment on the applicability of a Section 10 forbearance analysis for rules that are unnecessary, *see id.* at ¶ 68, the Commission need only decide now (prior to the rules' effective date) that these two rules should not apply to CMRS carriers. Frontier concurs with those commentors that believe it would be inappropriate to exercise the FCC's forbearance powers when the rules have yet to become effective.

⁵ The Commission has stated only that its rule does not require CMRS carriers to identify all of the entities with which carriers have roaming arrangements. The Commission concluded provision of the information was both unnecessary and potentially confusing to customers.

⁶ *See* AirTouch Comments at 1; ALLTEL Comments at 1; Arch Comments at 1; AT&T Comments at 1; Bell Atlantic Comments at 1; BellSouth Comments at 2; CTIA Comments at 1; GTE Comments at 1; Metrocall Comments at 7; Omnipoint Comments at 2; PCIA Comments at

note that the additional TIB regulations proposed by the Commission — namely, those focused on slamming, cramming and deniable charges — are incompatible with the way wireless services are provided and billed.⁷ Moreover, implementation of the two “fundamental” TIB rules is unwarranted, as the record shows that CMRS carriers already provide such information in customers’ bills.⁸ While there is unanimous agreement that subscribers should be provided with accurate and understandable billing information, the commenting parties provide substantial evidence that CMRS carriers are already meeting this goal.

As the Commission notes in the *FNPRM*, the CMRS market bears little evidence of slamming, cramming, or subscriber confusion over the content of service bills.⁹ The commentators agree and cite data demonstrating that complaints are rare in the wireless context.¹⁰ Because any substitution of wireless for wireline service has not been accompanied by increased consumer dissatisfaction, there is no basis for increasing TIB regulation as CMRS becomes more ubiquitous.

2; PrimeCo Comments at 1; RCA Comments at 2; RTG Comments at 1; SBC Comments at 1; Sprint PCS Comments at 1; USCC Comments at 6; U S WEST Comments at 2.

⁷ See AirTouch Comments at 7; ALLTEL Comments at 3; AT&T Comments at 7-8; Bell Atlantic Comments at 3-4; BellSouth Comments at 8; CTIA Comments at 3; GTE Comments at 5-6; Omnipoint Comments at 5; PCIA Comments at 5-6; PrimeCo Comments at 6; RCA Comments at 4; RTG Comments at 4; SBC Comments at 2; Sprint PCS Comments at 4; USCC Comments at 5-6; U S WEST Comments at 4-5.

⁸ See AirTouch Comments at 5; AT&T Comments at 7; GTE Comments at Attachment A; Omnipoint Comments at 8; PrimeCo Comments at 5 n.13; SBC Comments at 3.

⁹ See *FNPRM* at ¶¶ 16, 70.

¹⁰ See AirTouch Comments at 1; AT&T Comments at 4-5; Bell Atlantic Comments at 3 (citing Annual Report and Analysis of Competitive Conditions With Respect to Commercial Mobile Services, Fourth Report); BellSouth Comments at 6; CTIA Comments at 2-3; Metrocall Comments at 3; Omnipoint Comments at 3; PCIA Comments at 4; PrimeCo Comments at 4; SBC Comments at 2; U S WEST Comments at 2.

Frontier agrees with the numerous parties who cite the CMRS industry's vigorous competition as the main reason against imposing the instant TIB regulations.¹¹ Because consumers have a multitude of wireless choices, they are constantly evaluating CMRS carriers on all aspects of service, including the format, variety, and quality of their billing practices.

By not imposing a singular billing approach through mandated TIB regulations, the Commission has fostered the CMRS industry's development of creative billing options for consumers.¹² For example, Frontier has recently launched an innovative billing option that permits customers to access their accounts more conveniently and on their own terms. Frontier's new "ebill" billing service enables customers to electronically sort, break-out, display, and pay their bills on-line, all at no extra charge. Rather than sending out a static paper billing statement, Frontier has now placed a powerful consumer tool — an interactive billing system — into the hands of its subscribers.

By not resting on its laurels, Frontier continues to develop billing options which educate and empower its subscribers to a far greater extent than would the proposed TIB regulations. Besides unique services like "ebill," Frontier has recently invested over \$130,000.00 for a bill redesign program that produces enhanced bills with additional "customer friendly" features, including easier to understand summaries and additional call details of account activity. In the CMRS industry, where customers sign contracts setting forth service terms such as billing arrangements, Frontier

¹¹ See AirTouch Comments at 4; ALLTEL Comments at 2; Arch Comments at 3; AT&T Comments at 9; Bell Atlantic Comments at 5; BellSouth Comments at 7; CTIA Comments at 2; GTE Comments at 3; Omnipoint Comments at 4; PCIA Comments at 4; PrimeCo Comments at 3-4; RTG Comments at 6; SBC Comments at 3; Sprint PCS Comments at 2-3; USCC Comments at 6.

¹² See, e.g., AirTouch Comments at 5; Bell Atlantic Comments at 7-8; Metrocall Comments at 5; Omnipoint Comments at 7-8.

is finalizing a point-of sale “first bill” program which will enable customers to immediately see how the terms and conditions of their service contract translate into a monthly service bill. As demonstrated by the comments, Frontier is not alone in such efforts — wireless carriers throughout the industry are undertaking significant efforts.

II. ADDITIONAL TIB REGULATIONS WOULD HAVE THE UNINTENDED EFFECT OF DRAINING CMRS CARRIERS’ RESOURCES AWAY FROM CRUCIAL SYSTEM IMPROVEMENTS

Given these recent expenditures to improve billing format and customer service, Frontier agrees with the numerous parties concerned that the costs of modifying current billing systems to become TIB compliant do not outweigh any consumer benefit that might result from additional TIB provisions.¹³ For Frontier, the programming costs for software redesign (not including mailing costs and other transactions costs) would run over \$250,000.00, an almost prohibitive dollar amount given current demands on carrier resources. Like all other CMRS providers,¹⁴ Frontier has committed significant capital and human resources to meet Commission objectives such as E911 compliance, as well as “Year 2000” upgrades. Redesigning Frontier’s billing systems would drain significant resources away from these time sensitive and crucial efforts.

¹³ See AirTouch Comments at 5; BellSouth Comments at 9-10; GTE Comments at 5; Metrocall Comments at 5-6; Omnipoint Comments at 6; PCIA Comments at 7-8; PrimeCo Comments at 5; RCA Comments at 4; SBC Comments at 2.

¹⁴ See, e.g., AirTouch Comments at 3; USCC Comments at 4-5.

III. WHILE FORBEARANCE IS INAPPROPRIATE, THE COMMISSION IS CORRECT TO QUESTION THE NEED FOR ANY TIB REGULATION IN A CMRS ENVIRONMENT

As discussed above, the TIB regulations at issue are ill suited to the CMRS industry. Frontier agrees with the Commission that subscribers do not have a problem with wireless bills, and therefore, it is not necessary to extend the remaining TIB rules in the CMRS context. Under the same rationale, Frontier contends that implementation of the two named “fundamental” TIB rules is unnecessary.

To reexamine the relevancy of these TIB provisions in the wireless context, the *FNPRM* seeks comment on whether the Commission should forbear from enforcing TIB provisions.¹⁵ Forbearance under Section 10 is intended to provide relief from existing rules; *however, none of these rules are yet effective*. If the Commission is concerned that TIB regulation is inappropriate in a CMRS context, the appropriate response is to decide that these TIB rules will not become effective for CMRS carriers. The Commission should not implement these rules, in a wireless context, as they do not further Commission goals and could, in fact, cause harm. For example, the rule that requires service provider identification has been criticized as being vague¹⁶ and could undermine the standardization efforts of the wireless industry. As explained above, the rule is not required to achieve the Commission’s goal of eliminating problems such as slamming and cramming. Furthermore, carrier identification problems have not been a source of consumer confusion in the wireless setting.

¹⁵ See *FNPRM* at ¶ 68.

¹⁶ See BellSouth Comments at 9.

At a minimum, the service provider identification requirement should not encompass the provision of information that does not relate to the stated goal of eliminating problems such as unclear bill content.¹⁷ Although the Commission noted that consumers expect and should receive this basic information, the rationale set forth for its requirement is based on consumers' needs to combat unfair carrier practices as well as to be able to communicate complaints and dispute billed charges.¹⁸

Accordingly, if the Commission retains this rule, it should expressly limit the identification requirement to the business name of the entity in which the subscriber initiated service. CMRS carriers should not be required to provide the names of parent corporations, holding companies, or other entities which through a chain of ownership are the ultimate controlling entities of the service provider. Neither should the Commission expand the rule to require that entities, operating under business names via a "doing business as" designation, identify their corporate ownership chains.¹⁹ This is not basic information that consumers would expect nor is it essential to combat unfair billing practices. Rather than aid the consumer in comprehending his or her bill, the rule would interject confusion by inundating the consumer with irrelevant information. In addition, this would require

¹⁷ For example, the Commission indicates in a footnote that its rule does not require CMRS carriers to identify all of the entities with which carriers have roaming arrangements. *See FNPRM* at ¶ 30 n.77.

¹⁸ *Id.* at ¶ 29.

¹⁹ Many CMRS providers, especially new entrants and smaller competitors, utilize a 'branded' name to attract subscribers. To expand the current identification rule to require CMRS providers to provide the underlying entity's name could diminish the value of important service marks that are highly valued by consumers.

CMRS carriers to incur significant expense to: 1) redesign billing systems to accommodate the additional information; and 2) gather and continually update the information.

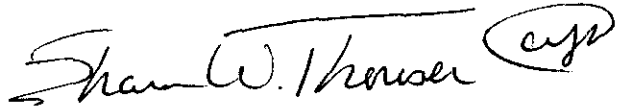
CONCLUSION

For the foregoing reasons, no further expansion of regulations concerning the billing practices of wireless carriers is necessary or appropriate. Frontier respectfully suggests that the Commission refrain from utilizing forbearance, given the fact that the rules have yet to become effective, and instead decide that the imposition of *any* TIB rules in the CMRS context is not in the public interest.

Respectfully submitted,

FRONTIER CELLULAR

By:



Sharon W. Thoresen
Vice President
Project Management/Quality Assurance
Frontier Cellular
133 Calkins Road
Rochester, NY 14623
(716) 321-7361

August 9, 1999

CERTIFICATE OF SERVICE

I, Jo-Ann Monroe, hereby certify that on this 9th day of August, 1999, copies of the foregoing "Reply Comments of Frontier Cellular" in CC Docket No. 98-170 were served by first-class U.S. mail, postage prepaid to the following:

Chairman William E. Kennard*
Federal Communications Commission
445 - 12th Street, S.W., Room 8-B201
Washington, D.C. 20554

Commissioner Gloria Tristani*
Federal Communications Commission
445 - 12th Street, S.W., Room 8-C302
Washington, D.C. 20554

Commissioner Michael Powell*
Federal Communications Commission
445 - 12th Street, S.W., Room 8-A204
Washington, D.C. 20554

Commissioner Harold Furchtgott-Roth*
Federal Communications Commission
445 - 12th Street, S.W., Room 8-A302
Washington, D.C. 20554

Commissioner Susan Ness*
Federal Communications Commission
445 - 12th Street, S.W., Room 8-B115
Washington, D.C. 20554

Pamela J. Riley
AirTouch Communications, Inc.
1818 N Street, N.W.
Washington, D.C. 20036

Glenn S. Rabin
Assistant Vice President
Federal Regulatory Affairs
ALLTEL Corporation
601 Pennsylvania Avenue, N.W., Suite 720
Washington, D.C. 20004

Douglas I. Brandon
Vice President - External Affairs
AT&T Wireless Services, Inc.
1150 Connecticut Avenue, N.W., Suite 400
Washington, D.C. 20036

John T. Scott, III
Crowell & Moring LLP
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Paul H. Kuzia
Executive Vice President, Technology
and Regulatory Affairs
Arch Communications Group, Inc.
1800 West Park Drive, Suite 250
Westborough, MA 01581

Peter Arth, Jr.
Lionel B. Wilson
Jonady Hom Sun
State of California Public Utilities
Commission
505 Van Ness Avenue
San Francisco, CA 94102

Michael F. Altschul
Randall S. Coleman
Cellular Telecommunications Industry
Association
1250 Connecticut Avenue, N.W., Suite 800
Washington, D.C. 20036

John F. Raposa
GTE Service Corporation
600 Hidden Ridge, HQE03J27
P.O. Box 152092
Irving, TX 75015-2092

Andre J. Lachance
GTE Service Corporation
1850 M Street, N.W.
Washington, D.C. 20036

Frederick M. Joyce
Christine McLaughlin
Joyce & Jacobs
1019 19th Street, N.W., 14th Floor - PH2
Washington, D.C. 20036

Mark J. Tauber
Piper & Marbury L.L.P.
1200 19th Street, N.W.
Washington, D.C. 20036

Mary McDermott
Todd B. Lantor
Personal Communications Industry
Association
500 Montgomery Street, Suite 700
Alexandria, VA 22314-1561

William L. Roughton, Jr.
Associate General Counsel
PrimeCo Personal Communications, L.P.
601 13th Street, N.W., Suite 320 South
Washington, D.C. 20005

Sylvia Lesse
Marci Greenstein
Kraskin, Lesse & Cosson, LLP
2120 L Street, N.W., Suite 520
Washington, D.C. 20037

Caressa D. Bennet
Edward D. Kanie
Bennet & Bennet, PLLC
1000 Vermont Avenue, N.W., 10th Floor
Washington, D.C. 20005

Jeanne A. Fischer
SBC Wireless, Inc.
13075 Manchester Road
St. Louis, Missouri 63131

Bruce E. Beard
SBC Wireless, Inc.
930 National Parkway
Schaumburg, IL 60173

Jonathan M. Chambers
Roger C. Sherman
Sprint Spectrum L.P.
1801 K Street, N.W., Suite M112
Washington, D.C. 20006

Jeffrey M. Pfaff
Sprint Spectrum L.P.
4900 Main, 11th Floor
Kansas City, MO 64111

Peter M. Connolly
Koteen & Naftalin, L.L.P.
1150 Connecticut Avenue, N.W.
Washington, D.C. 20036

Kathryn Marie Krause
U S WEST Communications, Inc.
Suite 700
1020 19th Street, N.W.
Washington, D.C. 20036

Mr. David Konuch*
Enforcement Division
Common Carrier Bureau
Federal Communications Commission
445 Twelfth Street, S.W., Room 5C-848
Washington, D.C. 20554

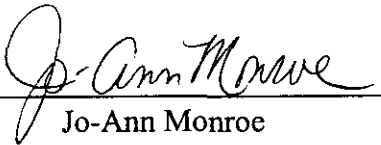
International Transcription Service, Inc.*
The Portals
445 - 12th Street, S.W., Room CY-B400
Washington, D.C. 20554

William B. Barfield
Jim O. Llewellyn
BellSouth Corporation
1155 Peachtree Street, NE, Suite 1800
Atlanta, GA 30309-2641

Lawrence Strickling, Chief*
Common Carrier Bureau
Federal Communications Commission
445 - 12th Street, S.W., Room 5-C450
Washington, D.C. 20554

David G. Frolio
BellSouth Corporation
1133 21st Street, N.W., Suite 900
Washington, D.C. 20036

Thomas J. Sugrue, Chief*
Wireless Telecommunications Bureau
Federal Communications Commission
445 - 12th Street, S.W., Room 3-C207
Washington, D.C. 20554



Jo-Ann Monroe

*By Hand